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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/728,431	11/30/2000	Mehryar Khalili Garakani	2705-135	6083
20575	7590	08/18/2005	EXAMINER	
MARGER JOHNSON & MCCOLLOM, P.C. 210 SW MORRISON STREET, SUITE 400 PORTLAND, OR 97204			NGUYEN, HANH N	
			ART UNIT	PAPER NUMBER
			2662	

DATE MAILED: 08/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/728,431

Applicant(s)

GARAKANI ET AL.

Examiner

Hanh Nguyen

Art Unit

2662

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

The RCE with amendment filed on 7/27/05 has been acknowledged and considered as described below.

In the previous action, Claims 3, 8, 15 and 18 fail to have its heading under rejection of Nicol (US Pat. No. 6,757,367 B1) in view of Fayad et al. (US Pat. No. 6,757,250 B1) and further in view of Pereira (Pat. 5,781,726). Claims 3, 8, 15 and 18 have now been rewritten with the correct heading. Further, it is required that "and/or" on line 9 of claim 8 be defined because the claimed "and/or" is vague.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4-6, 7, 14, 16, 17 and 21-25 are rejected under 35 USC 103(a) as being unpatentable over Nicol (US Pat. No. 6,757,367 B1) in view of Fayad et al. (US Pat. No. 6,757,250 B1).

In claims 1, 7, 14, 17, 21, 22, 23, 24 and 25, Nicol discloses, in Fig.12, a method of synchronizing between a calling modem 180a and an answer modem 180b over packet based network/voice frame network. Each of the modems being connected to corresponding gateways

182a and 182b respectively. (See col.26, line 55 to col.27, line 5). The synchronizing is performed by:

Terminating data transmission between the calling and the answer modems (terminating physical layer). See col.28, lines 63-67.

A call negotiator 200 (Fig.13) using V.8 standard to determine the type and capability of calling modem as well as the answer modem (negotiating the modems of the network). Indications such as data signals ANSam and V.8 from answer/remote modem and local/calling modem are received at the call negotiator 200 (signaling the other gateway when the physical layer negotiations have been completed). See col.27, lines 52-67. Error correcting control is performed by synchronizer 222 (Fig.13) to ensure the network gateways utilize a common error protocol (negotiating error correcting data link layer). See col.29, lines 1-10. Data signals are relayed across the packet network 181 via modem relay mode by synchronizing the connection rates at network gateways (synchronizing data transmission between the modems in the modem relay session). See Fig.4, col.28, lines 50-60. Nicol further discloses the modems performing compression and decompression in accordance with ITU standard V.42 bis (data compression in V.42 bis support modem, see col.31, lines 42-48 & col.36, lines 27-35 & lines 65-68. Nicol does not disclose sending from either gateway to an associated modem a not-ready message prior to establishment of a link between the gateways for data transfer; and sending a ready message after the negotiations have been completed.

Fayad et al. discloses, in Fig.3, a gateway 306 sends a receive-not-ready frame (a not ready message) to a modem 302 in response to a local call from the modem 302 in order to identify that a busy condition exists and prevents the modem 302 from transmitting any data

until the link between the gateway 306 and a gateway 308 is established (sending a not-ready message from either gateway to an associated modem a not-ready message prior to establishment of a link, see col.7, line 63 to col.8, line 5 & col.8, lines 40-50); and once the busy condition is clear, the receive-ready message is sent to modem 302 indicating that the modem 302 may transmit user data, see col.9, lines 2-15) (sending a ready message after the negotiations have been completed). Therefore, it would have been obvious to one skilled in the art to modify the Nicol by combining the transmission of RNR and RR frames suggested by Fayad et al. in order to negotiate transmission protocols and synchronize the calling and answer modems.

Claims 3, 8-13, 15 and 18-20 are rejected under 35 USC 103(a) as being unpatentable over Nicol (US Pat. No. 6,757,367 B1) in view of Fayad et al. (US Pat. No. 6,757,250 B1) and further in view of Pereira (Pat. 5,781,726).

In claim 8, since Nicol and Fayad et al. do not disclose the claimed limitations, Pereira discloses a detection mechanism (a destructive break condition) or detecting receipt of an initiate data transfer command (send a ready receive signal), Fig.7, col.10, lines 29-31); a relay mechanism associated with each gateway response to said detection mechanism upon either such detection for relaying the break condition to the other gateway and for relaying the receipt of the initiated data transfer command (relay the ready receive command to the sending station, Fig.7); and a data discard mechanism ( use a smart polling system , col.11, lines 10-17) response to said relaying mechanism for discarding data (discard the standard poll signal) until a modem initialization response to (the condition and/or) the command receipt is completed (the system uses a smart polling system where the polling signals are discarded until the connection between devices has been established, Fig.7, col.10, lines 29-53, col.11, lines 10-17). Therefore, it would

have been obvious to one skilled in the art to combine the teachings of Pereira with Nicol and Fayad et al. to monitor traffic flow, detect break condition and discard data.

In claims 2, 9, 12 and 13, Nicol discloses that the error correcting mode synchronization is support with V.42bis ( data compression), but does not disclose the not ready message and ready message compliant with the V.42 protocol. Fayad et al. discloses the receive-ready message and receive-not-ready messages using V.42 protocol (see col.8, lines 42-50). Therefore, it would have been obvious to one ordinary skilled in the art to send RR and RNR frames using the V.42 protocol suggested by Fayad et al. in the Nicols in order to correct errors and synchronize the transmission between modems.

In claims 3, 15 and 18, since Nicol and fayad et al. do not disclose relaying the occurrence of destruction break condition from a segment where it is detected to the other segment participating in the modem relay session. Pereira discloses the method of parent claims 1, 14, 17 which after said signaling and upon occurrence of a destructive break condition (signaling to terminate a connection), further comprises relaying the occurrence of the destructive break condition from a segment to the other segment, Fig.7, col.11, lines 18-37). Therefore, it would have been obvious to one ordinary skilled in the art to combine the teaching of Pereira with Nicol and fayad in order to realy a fail segment to the other segment participating in the modem relay session.

In claims 4, 10, 16 and 19, Nicol discloses after signalling and upon receipt at either gateway from a corresponding modem of an initial data transfer command (gateway 306 receives a local call from modem 302 to establish a connection, see col.7, line 62 to col.8, line 5), relaying

the initiate data transfer command from a segment to the other segment (the gateway 306 signals to a remote gateway 308 to contact modem 304, see col.7, line 62 to col.8, line 5).

In claims 5 and 11, Nicol does not disclose the initiate data transfer command is a Set Asynchronous Balance Mode Extended (SABME) message compliant with ITU-T V.42 protocol. Fayad et al. discloses, in Fig.6, the initiate data transfer command is a Set Asynchronous Balance Mode Extended (SABME) message compliant with ITU-T V.42 (see col.7, lines 55-65). Therefore, it would have been obvious to one ordinary skilled in the art to use the SABME message compliant with ITU-T V.42 of Fayad et al. into the Nicol in order to negotiate protocols between modem and gateways.

In claim 6, Nicol discloses that data is transmitted via packet switch network 10. In addition, Fayad et al. discloses a reliable transport protocol (transmission utilizes a reliable transport protocol) such as TCP provided over packet network 314, fig.3. Therefore, it would have been obvious to one ordinary skilled in the art to use the reliable transport protocol of Fayad et al. into Nicol in order to synchronize transmission data between modems.

In claim 20, the limitations of this claims have been addressed in claims 2 and 5.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

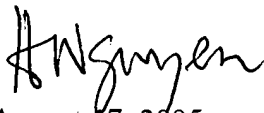
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh Nguyen whose telephone number 571 272 3092. The

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examiner can normally be reached on Monday-Friday from 8:00AM to 5:00PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou, can be reached on 571 272 3088. The fax phone number for the organization where this application or proceeding is assigned is 571 273 8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hanh Nguyen



August 17, 2005

**HANH NGUYEN  
PRIMARY EXAMINER**